IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.1079 OF 2004

Smt.Sundribai Ramgopal Badshiwal. .... Appellant.

Versus.

Sonibai Chunilal Badshiwal & anr. .... Respondents.

Shri A.M.Sarogi for the Appellant.

Shri N.V.Bandiwadekar for the Respondents.

CORAM : ABHAY S. OKA, J.

DATED : 10th January, 2005.

P.C.:

1. Shri Bandiwadekar, the learned Counsel appearing for the Respondents has invited my attention to the order dated 13th December 2004 passed by this Court. In the said order, his statement has been recorded to the effect that the repairs have been completed in accordance with the repair permission granted by the Bombay Municipal Corporation. Shri Bandiwadekar reiterates and confirms the correctness of the said statement. On instructions of the Respondent No.2, who is stated to be present in Court, Shri Bandiwadekar further states that the Respondents will not carry out any construction without seeking permission from the competent authority. The statements made by Shri Bandiwadekar are accepted.

2. In view of the statements made by Shri Bandiwadekar, nothing survives in this Appeal from Order. The Appeal is dismissed with no order as to costs. It is obvious that the learned trial Judge while deciding the suit finally will not be bound by the primafacie findings recorded while disposing of the Motion and the suit will be decided on its own merits.

3. Parties to act on authenticated copy of this order.

Judge.